

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ARNOLD HENRY,

Plaintiff,

v.

K. MIHM, UNKNOWN SCHAFFER, and
JOHN DOE,

Defendants.

Case Number 22-12830

Honorable David M. Lawson

Magistrate Judge Elizabeth A. Stafford

ORDER OVERRULING UNTIMELY OBJECTIONS

On January 26, 2024, Magistrate Judge Elizabeth A. Stafford issued a report pursuant to 28 U.S.C. § 636(b) recommending that the Court grant in part the defendants’ motion to dismiss, dismiss the plaintiff’s equal protection claim, and deny the plaintiff’s motions for summary judgment. The report advised the parties that they could file objections within 14 days after service, as provided by Federal Rule of Civil Procedure 72(b)(2) and Eastern District of Michigan Local Rule 72.1(d). On February 22, 2024 — 27 days after the report was issued and served — the Court, having received no objections, entered an order adopting the recommendation and dismissing the case.

On February 14, 2024, the Clerk of Court received the plaintiff’s “notice of change of address.” However, that notice was not received until 19 days after the report and recommendation were served on the plaintiff at his prior address of record. The Court issued a notice at the outset of this case advising the parties that “you are required, pursuant to E.D. Mich. LR 11.2, to promptly file a notice with the Clerk and serve a copy of the notice on all parties whenever your address, e-mail address, phone number and/or other contact information changes.” Notice Regarding Parties’ Responsibility to Notify Court of Address Changes, ECF No. 7. The recently submitted notice of

address change was not presented to the Court until 19 days after the report was issued, and in any event the plaintiff's objections were filed well beyond the 14-day window for presenting objections. The plaintiff's failure to present timely objections releases the Court from its duty to independently review the matter, *Thomas v. Arn*, 474 U.S. 140, 149 (1985), and waives any further right to appeal, *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987).

Moreover, the Court has reviewed the objections and finds that they present no good grounds to alter the prior ruling. The magistrate judge recommended that the Court dismiss the plaintiff's equal protection (discrimination) claim because the complaint did not state facts demonstrating that relief could be granted on that claim. *See* Fed. R. Civ. P. 12(b)(6). Nonetheless, she allowed all of his other claims to proceed. The plaintiff objects that he was not permitted to obtain discovery before the equal protection claim was dismissed. But the recommendation addressed the defendants' challenge to the sufficiency of the pleadings, and the plaintiff's objection does not identify any error in the magistrate judge's determination that the equal protection claim was insufficiently pleaded. Discovery is not warranted for a claim that has not been pleaded adequately in the first instance.

Accordingly, it is **ORDERED** that the plaintiff's untimely objections (ECF No. 57) are **OVERRULED**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: February 28, 2024